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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 1307
Examiner: Ms. Karen Aftergut

In re PATENT APPLICATION of

Applicant(s)	:	Herbert HESS et al.
Application No.	:	08/725,023
Filed	:	October 2, 1996
For	:	FORM FOR MANUFACTURING CONCRETE FORM COMPONENTS BY MACHINE
Attorney Docket	:	ESLOT 0228

RESPONSE

February 6, 1998

FEE Enclosed: $ -NONE-
Please charge any further fee to Dep. Acct. 19-3700

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Office action of January 7, 1998, applicants elect claims 1-9 drawn to the apparatus.

The restriction is traversed on the grounds that the mold defined in claims 1-9 and the process for manufacturing concrete moldings are intimately related to each other, so much so that the process claim 10, from which process claims 11-13 depend, itself depends from claim 1 defining the mold.

The Examiner has stated that the process as claimed, presumably in claims 10-13, can be practiced by a materially different apparatus, meaning, presumably, a mold materially different from that of claims 1-9. However, process claim 10 specifically requires the use of the mold of claim 1, so that the conclusion stated in the Office action appears to be inapposite. Accordingly, it is respectfully submitted that the subject matter of two groups of claims cannot be said to be involving independent and distinct

inventions.

Added to the foregoing is that if two separate patents were to issue for claims 1-9 and claims 10-13, respectively, anyone practicing the process as defined in claim 10 would infringe not one but two patents, and be subjected to the payment of royalties under two patents. Added to this is that there is nothing that would require the two patents to be co-owned, which means that anyone practicing the process could be in a position of having to pay royalties to different parties. While it is not unusual for a given product or process to infringe more than one patent, this result would, in the present situation, be reached only because of the restriction requirement and this, it is respectfully submitted, is not in the public interest.

In view of the above, and as the subject matter of claims 1-9 and the subject matter of claims 10-13 are closely related to each other, it would appear appropriate that both groups of claims be retained in one application. Accordingly, it is respectfully requested that the Examiner reconsider and withdraw the restriction requirement.

Respectfully submitted,

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